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COMMITTEE ON THE RIGHTS OF THE CHILD

Seventeenth session

SUMMARY RECORD OF THE 437th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 12 January 1998, at 3 p.m.

Chairperson: Miss MASON

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Ireland (CRC/C/11/Add.12; HRI/CORE/Add.15; CRC/C/Q/IRE/1 (list of issues to be taken up in connection with the consideration of the initial report of Ireland); written replies by the Government of Ireland concerning the list of issues (document without symbol distributed at the meting)) (continued)

1. At the invitation of the Chairperson, the Irish delegation took places at the Committee table.

2. The CHAIRPERSON invited the Irish delegation to reply to the questions put to it at the previous meeting.

3. Ms. O'DONNELL (Ireland) said that the Protection of Young Persons (Employment) Act contained various standards concerning hours worked, safety at work and general employment conditions for minors, and that the recent European Union Directive concerning the protection of young persons was currently being incorporated into domestic law. There was at present no minimum wage requirement. However, in accordance with the commitments it had assumed in its Programme for Government, the new Government had set up a commission to examine the issue, and a number of sectors, including the hotels sector, had already introduced a minimum hourly wage for working children.

4. Mr. KILROY said that a working group fully representative of all relevant non-governmental organizations (NGOs) had been set up to examine national policy on protection of children, and that in application of the Child Care Act the Health Boards provided funding to a range of NGOs dealing with children at risk. The Department of Education provided pre-school and social protection services for children in areas of socio-economic disadvantage, and also for children from the Travelling Community. In April 1998 the Minister of Education would also be organizing a major forum on pre-school education, in which all the institutions and organizations concerned would participate. On that occasion the essential question of links between pre-school provision and primary school provision would be among the topics addressed. As for Traveller children, their rate of participation in primary schooling was particularly high, and the Government would continue its efforts to facilitate their access to second-level education.

5. Ms. O'DONNELL (Ireland) added that the Health Boards were obliged to review the situation of children placed in residential care every six months during the first two years of the placement and yearly thereafter, and that on that occasion they must take account of the views expressed by the child. Any person having a bona fide interest in the care of the child could also request such a review.

6. Mr. FULCI asked whether any surveys had been conducted to ascertain whether members of certain professions such as members of parliament and government officials, and also journalists, members of NGOs and the general public were aware of the rights set forth in the Convention.

7. Ms. O'DONNELL (Ireland) said that the Government had decided to launch a two-year public awareness campaign on the Convention, over the years 1998 to 2000.

8. Mrs. KARP asked whether a minor under 18 years old who married was then regarded as an adult and no longer benefited from the protection measures accorded to minors. With regard to the age of criminal responsibility, it seemed to her insufficient to raise it from 7 to 10 years. To have dealings with the law could have dramatic consequences for the future of the child, and in her view it would be better to consider alternative measures. Furthermore, the minimum legal age for consulting a doctor without the consent of the parents had been set at 16 years, and she wondered whether children under that age who had sexual or drugs-related problems were able to consult a doctor or a psychologist without necessarily mentioning the matter to their parents.

9. Noting that there were plans to raise from 16 to 18 the age used to define a child in the 1945 Mental Treatment Act (CRC/C/11/Add.12, para. 67), she wished to know why that measure was envisaged, and whether children whose parents decided to place them in a psychiatric hospital had the possibility of contesting their decision. She also wished to know whether judges, psychologists, teachers and members of other professions who came into contact with children received training enabling them to serve the best interests of the child and to assist him in freely expressing his opinion on any question concerning him. In the areas of custody and visiting rights, for example, the child should be able to express his opinion not only through third parties, but also directly and personally.

10. She also requested further information on the measures taken to improve the situation of children in the Travelling Community and to combat discrimination against them. Lastly, she asked whether it was planned to prohibit reasonable and moderate chastisement by parents in the correction of their children, which in her view was incompatible with the principles of the Convention.

11. Mrs. OUEDRAOGO asked how the Government monitored the situation of children employed in the informal sector, and whether the Children Bill, 1997, which for the first time authorized an unmarried father to exercise parental authority jointly with the child's mother, had entered into force. She also requested further details of the legislation on abortion, which seemed to be rather confused, as well as on the results of the study on the causes of adolescent suicide and of the programme to reduce the suicide rate among adolescents.

12. Mrs. MOKHUANE asked whether the Department of Education was involved in the implementation of the adolescent suicide prevention programme and whether there was any coordination in that area between the various departments dealing with child issues. Noting that the Status of Children Act, 1987, had eliminated the discrimination made in legislation between legitimate and illegitimate children, she wished to know what the Government was doing to inform the media that the term "illegitimate child" should no longer be used. Lastly, she asked from what point an unborn child was considered to be a person under Irish legislation.

13. Mr. KOLOSOV asked whether all persons resident in Ireland, including foreigners and stateless persons, enjoyed equality of rights in the same way as Irish citizens, and to what extent the procedure for entering the father's name in the births register when he was not married to the child's mother had been eased (paragraph 94 of the report). He also wished to know whether children born out of wedlock and children of asylum seekers were subjected to discrimination. Lastly, he asked why the age of consent to sexual relations had been set at 17 years, whereas the minimum age for marriage was 16 years. Did that mean it was a criminal offence to have sexual relations with an unmarried person under 17 years of age, whether or not that person consented to the act?

14. Ms. O'DONNELL (Ireland) said that the Family Law Act, 1995, fixed the minimum age for marriage at 18. However, persons between 16 and 18 years old could enter into marriage with the consent of their parents. Persons under the age of 16 wishing to marry must obtain the consent of the High Court which, in its decision, took account of the best interests of the child.

15. Mr. MURRAY (Ireland), replying to the question concerning the age of criminal responsibility, said that it was at present fixed at seven. However, there was provision in the Children Bill for it to be raised to 10. It might subsequently be raised to 12, but to raise it by five years at one stroke could lead to insuperable difficulties. Moreover, in Irish law criminal responsibility was a common law notion, meaning that below a certain age a child was not considered capable of committing an offence. Children under seven years of age who committed a reprehensible act were dealt with, where necessary, under the Child Care Act. Those children could also be dealt with by the Health Boards, which applied appropriate measures within the child's family environment. Under another common law rule, special arrangements could also be applied to children who had attained the age of criminal responsibility but were under 14.

16. Ms. O'DONNELL (Ireland), referring to the question of discrimination, said that the principle of equality was enshrined in the Irish Constitution and, in that connection, referred the Committee to the written replies to the list of issues. Two significant pieces of legislation in that field - the Employment Equality Bill and the Equal Status Bill - were to be amended, having been found unconstitutional by the Supreme Court, and would shortly be reintroduced in the Oireachtas. The authorities were aware of the need to ensure equal access for all children to education, health care and social services, and particular efforts were being made with regard to children of refugee families or from the Travelling Community. Until recently asylum seekers had been very few in number, consisting chiefly of single males, whereas they now comprised whole families. Children of asylum seekers could enrol in school even if their families were still awaiting final determination of their status, and language training was offered both to school-going and to adult refugees. The authorities had also put in place a number of measures concerning Traveller children to promote their participation in education and their access to health care. She mentioned that the Travelling Community, which had numbered 23,500 in 1995, had increased by 60 per cent between 1981 and 1995. In 1986, almost 75 per cent of the Travelling Community had been under 25 years old, and of that number more than 50 per cent had been under 15. The average size of families was 5.4 persons. Their situation with

regard to accommodation had improved greatly: in 1996, 4,320 families, or 80 per cent of the Travelling Community, had lived in serviced halting sites. The Government was allowing about five years in which to give all Travellers appropriate accommodation standards, and a Bill establishing local authorities' obligations in that regard was currently being studied. While the majority of Traveller children attended primary school, it was a matter of concern that only 20 per cent of them attended second-level schools. Aid to the Traveller Community thus remained a priority of the Government. Furthermore, the Department of Education was currently reviewing equality of access by children with disabilities or special needs to the social and educational fields.

17. The concept of the best interests of the child was fully reflected in legislation, particularly in two key pieces of legislation, namely, the Child Care Act and the Children Act. That principle also underpinned social welfare policy. The right of children to express an opinion was also reflected in legislation: for example, it was provided for in guardianship proceedings, and student councils were to be created in schools.

18. Ms. BARRINGTON (Ireland) said that the principle of respect for children's privacy was fully applied in the context of medical consultations. With regard to mental health treatment, an area in which the persons concerned were not always able to give their consent, the legislation was being revised so as to incorporate the United Nations Principles for the protection of persons with mental illness and the improvement of mental health care, as well as the relevant principles of the European Convention on Human Rights, so that under the new legislation the age of consent would be raised to 18 years.

19. With regard to possible disparities between actions by the various Health Boards, she said that the Boards were bodies with general responsibility for health services in Ireland, and that the concept of health was very broadly interpreted. The powers of the Health Boards were defined in law, and in order to avoid possible disparities in the provision of services, the Department of Health had established guidelines and maintained close and frequent contact with the heads of each of the Boards.

20. Ms. O'DONNELL (Ireland), replying to questions on corporal punishment, said that the situation varied according as the context was the family, school or residential care. In the case of foster care, corporal punishment was expressly prohibited. In schools, a recent law had abolished the common law rule whereby teachers inflicting corporal punishment were immune from criminal liability, but it made no reference to the liability of parents, for the Government had considered that public opinion was not yet ready for such a decision. Nevertheless, it was proposed to initiate a public debate on the question. In that connection, the Law Reform Commission had recommended that, while it was premature to change the law under which parents had the right to inflict moderate and reasonable chastisement on their children, efforts should be made to change parents' attitudes. Corporal punishment was expressly prohibited in pre-school establishments. As for residential care services, the Health Boards recommended that reasonable and humane sanctions should be applied and that all corporal punishment should be avoided.

21. A child was considered to be a person from the moment of birth. However, the Constitution also contained provisions to protect the rights of the unborn. As recent judicial decisions had shown, that protection could nevertheless be limited in certain cases, for example when the future mother's life was in danger. A working group had been set up to study all the medical, legal and social issues raised by abortion and, following its completion, a green paper was to be published in June 1998.

22. Mr. KILROY (Ireland) said that, generally speaking, children dropped out of school not because of economic factors, but because school had ceased to be relevant to their interests, needs and aspirations. Conscious of that situation, the Irish authorities had begun to prepare less traditional school curricula that were more likely to interest and motivate children experiencing difficulties. A bill on the question was being studied and activities for children excluded from the school system were being organized, some of them in cooperation with NGOs.

23. Ms. BARRINGTON (Ireland), referring to the question of single mothers, said that a plan for women's health had recently been published, in which the position of women living alone was highlighted. In addition, various projects were under way throughout the country, one of which was intended to provide young girls with information on the problems they might encounter in areas such as educational and vocational guidance and early pregnancy. One of the Health Boards was implementing a project in which experienced mothers met and tried to assist young single mothers.

24. As for the registration of births, nothing in domestic law precluded the registration of the father's name when he was not married to the child's mother. Nonetheless, it would not be feasible to make such registration compulsory; nor would it appear to be required under the Convention. On the question of adolescent suicide, the suicide rate in that category of the population was not very high but was, however, increasing dramatically. Two years previously a task force had begun to study the problem with a view to preparing strategies to lower the suicide rate, and its report would soon be published. Children had not yet been consulted on the question, as a matter of prudence, for it was feared that broaching the matter might plant the seed of suicide in some children's minds. Nevertheless, children's views on the question were clearly important. As for the application of the word "illegitimate" to children and the discrimination that might result from its use, the expression "non-marital child" had to all intents and purposes replaced it in normal parlance; given that around 25 per cent of children in Ireland belonged to that category, they were not stigmatized to the extent that they had been in the past.

25. Ms. O'DONNELL (Ireland), clarifying a response on the question of marriage, said that up until 1995 young people between 16 and 18 years of age had been able to get married with the consent of their parents. Since then, any person under 18 years of age wishing to marry must obtain the permission of a court, parental consent no longer being sufficient for children between 16 and 18 years of age.

26. With regard to the application of the Constitution to non-citizens, the rule was that most of the fundamental rights set forth in the Constitution

were applicable to persons resident in Ireland, whether or not they were Irish citizens. However, application of article 40 of the Constitution, concerning equality, was limited to Irish citizens. Nevertheless, the Constitutional Review Group had recommended that the guarantee of equality should be extended to non-citizens. The concept of the best interests of the child was enshrined in many national laws, but the Constitutional Review Group had recommended that the principle should be expressly set forth in the Constitution, and in all newly adopted laws.

27. Ms. BARRINGTON (Ireland) said that copies of the Convention were distributed in schools in Ireland, and that study of the principles set forth therein was included in curricula.

28. The CHAIRPERSON invited members who so wished to revert to the topics considered at the previous meeting and to take up the section of the list of issues entitled "Family environment and alternative care".

29. Mr. KOLOSOV, referring to paragraph 94 of the report, asked to what extent the procedures for having the father's name entered on the births register when he was not married to the mother had been eased. Moreover, he noted that the delegation's oral reply to the question about the age of sexual consent was in contradiction with paragraph 73 of the report, which stated that the Family Law Act of 1995 increased the minimum age of marriage to 18 years and removed any requirement for parental consent. Furthermore, with reference to paragraph 72 of the report according to which, outside of marriage, 17 years was the age of consent for both heterosexual and homosexual intercourse, he asked what sanctions were provided in the event of violations. Lastly, he noted that Ireland had sometimes been the impugned party in cases brought before the European Commission of Human Rights and the European Court of Human Rights. Had any of those cases involved violations of the rights of the child and, if so, had they been taken into account in the preparation of the report?

30. Mrs. MOKHUANE, referring to the policy of non-discrimination applied to the Travelling Community, said that, according to information available to her, the resources allocated to it were inadequate. What could be done to increase the amount of assistance it received, in particular to satisfy the needs of its children? Furthermore, it would appear that such communities in rural areas could more easily take advantage of the various services and facilities available than those in urban areas.

31. Mrs. KARP asked whether anything had been done to enable children in a difficult situation to express their opinions. Did social workers or the persons responsible for the care of such children receive training that enabled them to acquire a better understanding of their needs? Could children express views in certain bodies such as the recently established Regional Education Council?

32. She also asked whether parental consent was required when an adolescent had to consult a doctor because of a drug problem or a desire to use contraception for example. Referring to the question of corporal punishment, she wished to know whether the awareness-raising campaign directed at parents had begun and whether budgetary funds had been allocated for that purpose.

Lastly, on the question of abortion, she asked what happened if the parents of a very young girl opposed abortion whereas the girl herself did not wish to have her child.

33. Mrs. PALME said she would like to know to what extent the subcommittee on unwanted pregnancies that was to be established by the authorities would participate in activities under various health programmes and public projects so that uniform criteria could be applied throughout. Moreover, in the framework of those programmes children must be provided not only with medical care but also psychological support, particularly by taking their views into account.

34. Mrs. SARDENBERG said she was concerned by the idea that the authorities preferred to leave it up to parents to decide what constituted "reasonable and moderate" corporal punishment - a term that would inevitably be defined in an extremely subjective manner - rather than defining it in legislation. She observed in that connection that Ireland was not a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; that was unfortunate.

35. The freedom of expression of children, embodied in article 12 of the Convention, was a novel principle whose application raised problems in a number of countries. It was gratifying that Ireland's education system was being reformed and that the delegation had acknowledged that very often curricula failed to take the views of the child sufficiently into account. To what extent could children participate in the life of the school at the present time? What was the position as regards sex education? To whom could a child complain if he was bullied?

36. Unfortunately the situation of girls, which was of particular importance to the Committee and had been one of the main topics discussed at the Beijing Conference, was not mentioned in the report, although the Government's written replies referred to impressive statistics on the schooling of girls and in particular on the high proportion of girls studying at university. However, was the proportion of career women of the same order? Moreover, in view of the increasing number of unwanted pregnancies being recorded were preventive measures being taken? Lastly, noting that parents were entitled under the Constitution to educate their children at home, she wondered whether that practice was widespread and, if so, why. Moreover, did teachers receive training in human rights, and specifically in the rights of the child?

37. Mr. FULCI said that, according to the Irish press, the number of street children was increasing by at least 400 a year; that trend placed such children at risk by exposing them to prostitution. According to the report, the authorities were aware of the problem and were doing everything possible to solve it. Did the delegation have reliable data on the subject and on the number of homeless children? What measures had been taken or would be taken to reverse the trend? Moreover, the Government recognized that existing legislation relating to children who were victims of domestic violence was inadequate and had stated that additional resources were being made available to improve social support services. Were any figures available on the subject? Had preventive measures been taken or were they envisaged?

38. Mrs. QUEDRAOGO wondered whether, in the case of adoption, the child who bore the name of his adoptive parents had the right to know his real identity and obtain information about his biological parents. Could he assume the name of his biological parents? Moreover, whereas States parties should ensure that no child was subjected to torture or other cruel, inhuman or degrading treatment or punishment (article 37 (a) of the Convention), it had been observed that young persons who were ill-treated while in custody or during questioning lacked adequate guarantees. What was being done to remedy the situation? Lastly, she said she was concerned by the situation of children who, under alternative care, were not treated well. Could those children be removed from their foster family and were there any family support services available?

39. Mrs. KARP wondered how the State party ensured that teachers in private establishments had the necessary qualifications and would appreciate knowing how such establishments were supervised. She also asked what resources were allocated to family support services and whether the number of social workers available was enough to satisfy the demand.

40. She noted that abused children could seek help from the police but observed that, in general, the persons most qualified to deal with complaints of that nature were social workers and not the police. Furthermore, were teachers required to bring cases of children who were victims of domestic violence to the attention of the competent bodies? Lastly, referring to the Government's reply to issue 22, she would appreciate clarification of the statistics on cases of cruelty to or neglect of children reported to the Gardaí between 1992 and 1996. The number of such cases seemed to be very small considering that steps had been taken to make it easier for children to complain to the police and judicial authorities.

41. The CHAIRPERSON said that she, just like other members of the Committee, was concerned by the matter of corporal punishment. She noted that the Children Act of 1908 referred to moderate corporal chastisement whereas, the Children Bill failed to mention it at all. Did that mean that the law authorized what it did not specifically forbid?

42. Mrs. MOKHUANE said she would appreciate clarification of the fact that the authorities required Vietnamese families wishing to benefit from the family reunification programme to provide proof of their ability to support their relatives intending to join them in Ireland. In view of the improvement of the economic situation in Ireland, was the Government taking into account the provisions of article 10 of the Convention on family reunification? She also asked whether article 9 of the Convention was taken fully into account when an abused child was removed from his family.

The meeting was suspended at 5.10 p.m. and resumed at 5.20 p.m.

43. Ms. O'DONNELL (Ireland) said she wished to revert to the statistics, referred to at the previous meeting, on child poverty in Ireland. Those statistics, which had been extracted from a 1994 survey and based on figures for 1993, were rather misleading because, owing to the way they had been calculated, they did not reflect poverty in absolute terms. In any event, a great deal had been done since then to deal with the problem: child benefits

had been increased by over 50 per cent, low-income families had been granted a supplementary allowance - the FIS - (which was being paid to about 12,000 persons at the present time), and vocational training programmes and a back-to-work allowance had been introduced, since child poverty was closely linked to parental unemployment. The objective of the national anti-poverty strategy was to reduce the percentage of the population identified as being consistently poor and to resolve the school drop-out problem among children from disadvantaged families in order to break the poverty cycle. Since 1994, the number of children living in poverty had declined as a result of those measures and also because of the economic recovery recorded in the country.

44. Replying to the question about the bodies to which citizens could complain about the poor quality of health services or the difficulty of obtaining such services, she explained that clinics throughout the country could deal with complaints of that nature and that there was also an ombudsman who could look into complaints about the provision of public services.

45. She explained that the criteria applied to women and adolescents wishing to terminate a pregnancy were the same. Abortion was legal under the Constitution if there were reasonable grounds for believing that the pregnancy constituted a real and substantial risk to the life - as distinct from the health - of the future mother. When a pregnant adolescent under the care of the Health Board wanted an abortion, the decision in the matter was taken by the court on the basis of psychological and psychiatric reports, after consultation with the adolescent and following an evaluation of the danger presented by the pregnancy to the life of the mother. The situation was more complicated if the adolescent was in her parents' care. For that reason, all the various aspects of abortion, namely, ethical, legal and constitutional, were being examined in the context of a broad-ranging consultation initiated by the Government, on completion of which a decision would be taken concerning the possible amendment of the relevant legislation.

46. The idea that persons working with children were under an obligation to report any cases of abuse to the competent authorities was the subject of a lively debate in Ireland. It had been rejected by the previous Government despite the favourable opinion of the Law Reform Commission in respect of the sexual abuse of children. Public opinion in Ireland was favourable to the introduction of the mandatory reporting of abuses and the question was being considered by the new Government which, in its programme of action, had taken a similar view. Existing guidelines on child abuse were not legally binding and had proved ineffective as a means of protecting children against violence of all kinds. The present Government was, moreover, determined to elucidate the discrepancy noted between the large number of cases of child abuse reported to the authorities and the number of criminal prosecutions initiated.

47. Lastly, replying to the question on the family reunification of Vietnamese refugees who had settled in Ireland, she explained that no financial demands were made of refugees wishing to bring their families over, that they simply had to provide proof of three years' residence in the country and that, so far, 378 Vietnamese citizens had settled in Ireland under the reunification programme.

48. Mrs. BARRINGTON (Ireland), replying to a question put by Mr. Kolosov, said that a woman could now register her child under the name of its father and was no longer required to do so under the name of her husband if he was not the father.

49. With regard to the complaints submitted by Irish citizens to the European Court of Human Rights, she explained that national legislation found to be incompatible with the provisions of that Convention had been amended accordingly. Furthermore, on the question of the coordination of various programmes aimed at promoting health in the country - such as the Healthy Cities Initiative - she explained that the Health Promotion Unit of the Department of Health was cooperating closely with the Child Care Policy Unit and that, since Irish society was relatively small, informal coordination was also working quite well.

50. Mrs. SPILLANE (Ireland) said that the law expressly prohibited corporal punishment in child-care institutions and establishments. Referring to Mr. Fulci's request for reliable statistics on homeless children, she said that, according to the Eastern Health Board, 400 homeless children were presented for emergency services each year. However, they were usually the same ones, for whom assistance was requested several times during the same year; statistics on the subject had to be improved. A total of 160 emergency places were available under the Eastern Health Board and child-care facilities would be improved further thanks to the supplementary funds that had recently been made available. Day centres for adolescents had also been provided. She also noted that a major study of domestic violence had been completed the previous year, as a result of which various measures had been drawn up to combat violence against women, which was very often a source of child abuse. Women's Aid - a non-governmental organization which was endeavouring to curb domestic violence in the country - had received supplementary funding the previous year. Refugee care centres had similarly received additional funds in 1997.

51. The Irish authorities were aware of the need to improve and expand family support services so that all children at risk could receive appropriate protection. Additional funds for the purpose had already been earmarked in the 1998 budget and the Health Boards were at present deciding how the amounts in question were to be allocated. The budget of the Child Care Service, under the Child Care Act, amounted to about £100 million, and since 1993 an additional amount of £14 million had been made available.

52. Lastly, she said that the Adoption Act of 1952 restricted the right of adopted children to know the name of their natural parents. The Constitutional Review Group had recommended that adopted children should have a right to know their real identity and have access to their birth records. The Ministry of Health and Children had already accorded priority to that question.

53. The CHAIRPERSON thanked members of the Irish delegation for the detailed replies they had provided and invited them to continue their presentation at the following meeting.

The meeting rose at 6 p.m.